

State of New Hampshire Banking Department

In re the Matter of:) Case No.: 08-021
)
State of New Hampshire Banking) Order to Show Cause
)
Department,)
)
Petitioner,)
)
and)
)
Mortgage Resource Professionals Inc,)
)
Lynn C. Gaulin and Michael D. Gaulin,)
)
Respondents

NOTICE OF ORDER

This Order commences an adjudicative proceeding under the provisions of RSA 397-A:17, RSA 541-A, BAN 200 and JUS 800.

LEGAL AUTHORITY AND JURISDICTION

Pursuant to RSA 397-A:17, the Banking Department of the State of New Hampshire (hereinafter the "Department") has the authority to issue an order to show cause why license revocation penalties for violations of New Hampshire Banking laws should not be imposed.

Pursuant to RSA 397-A:21, the Commissioner has the authority to suspend, revoke or deny any license and to impose administrative penalties of up to \$2,500.00 for each violation of New Hampshire banking law and rules.

NOTICE OF RIGHT TO REQUEST A HEARING

The above named respondents have the right to request a hearing on this Order to Show Cause, as well as the right to be represented by counsel at each Respondent's own expense. All hearings shall comply with RSA 541-A. Any such request for a hearing shall be in writing, and signed by the respondents or the duly authorized agent of the above named respondents, and shall be

1 delivered either by hand or certified mail, return receipt requested, to the
2 Banking Department, State of New Hampshire, 64B Old Suncook Road, Concord, NH
3 03301. Such hearings will be scheduled within 10 days of the request. If the
4 Respondents fail to appear at the hearing after being duly notified, such
5 person shall be deemed in default, and the proceeding may be determined against
6 the Respondent upon consideration of the Order to Show Cause, the allegations
7 of which may be deemed to be true.

8 If the Respondents fail to request a hearing within 30 calendar days of
9 receipt of such order or reach formal settlement with the Department within
10 that time frame, then such person shall likewise be deemed in default, and the
11 orders shall, on the thirty-first day, become permanent, and shall remain in
12 full force and effect until and unless later modified or vacated by the
13 commissioner, for good cause shown.

14 **STATEMENT OF ALLEGATIONS, APPLICABLE LAWS AND REQUEST FOR RELIEF**

15 The Staff Petition dated January 31, 2008 (a copy of which is attached
16 hereto) is incorporated by reference hereto.

17 **ORDER**

18 WHEREAS, finding it necessary and appropriate and in the public
19 interest, and consistent with the intent and purposes of the New Hampshire
20 banking laws, and

21 WHEREAS, finding that the allegations contained in the Staff Petition,
22 if proved true and correct, form the legal basis of the relief requested,

23 It is hereby ORDERED, that the Respondent shall show cause why:

- 24 1. Administrative penalties of \$2,500.00 should not be imposed
25 against each named Respondent; and
2. Statutory penalties of \$4,600.00 should not be imposed; and
3. Respondent Mortgage's license should not be revoked; and

1 It is hereby ORDERED that:

2 4. Failure to request a hearing within 30 days of the date of
3 receipt of this Order shall result in a default judgment being
4 rendered, license revocation and administrative penalties
5 imposed upon the defaulting Respondent.

6 SIGNED,

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8 Dated: 1/31/08

9 /s/
10 PETER C. HILDRETH
11 BANK COMMISSIONER
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In re the Matter of:)	Case No.: 08-021
)	
State of New Hampshire Banking)	Staff Petition
)	
Department,)	
)	
Petitioner,)	January 31, 2008
)	
and)	
)	
Mortgage Resource Professionals Inc,)	
)	
Lynn C. Gaulin and Michael D. Gaulin,)	
)	
Respondents)	

The Staff of the Banking Department, State of New Hampshire (hereinafter referred to as the "Department) alleges the following facts:

1. Mortgage Resource Professionals Inc (hereinafter "Respondent Mortgage") is licensed as a Mortgage Broker and at all times relevant to this action held a Department license since at least 2003.
2. Lynn C. Gaulin (hereinafter "Respondent L. Gaulin") is President and 50% owner of Respondent Mortgage.
3. Michael D. Gaulin (hereinafter "Respondent M. Gaulin") is Vice-President and 50% owner of Respondent Mortgage.
4. Notice of an upcoming examination was sent to the Respondent via US Certified Mail on September 26, 2007 (mail piece number 7006 3450 0000 0610 0853). The Respondent received and signed for the notice on or about October 9, 2007.
5. In addition Respondent L. Gaulin was notified via email that an

examination notice was being put in the mail.

6. The Department sent a second notice to the Respondent via US Certified Mail and on or about November 20, 2007 (mail piece number 7007 1490 0000 0422 2703). The Respondent received and signed for the notice on or about November 26, 2007.

7. The second notice was also emailed with delivery confirmation on November 20, 2007. The Respondent read the email on November 21, 2007.

8. To date the Respondent has failed to facilitate the examination.

9. October 31, 2007 was the end of the 21-day grace period.

10. It has been 92 days since October 31, 2007 without any production of documents.

ISSUES OF LAW

The staff of the Department, alleges the following issues of law:

1. The Department realleges the above stated facts in paragraphs 1 through 10.

2. The Department has jurisdiction over the licensing and regulation of persons engaged in mortgage broker activities pursuant to NH RSA 397-A:3.

3. Pursuant to New Hampshire Banking law, RSA 397-A:12 the Department may examine the business affairs of any licensee or any other person, whether licensed or not, as it deems necessary to determine compliance with this Chapter and the rules adopted pursuant to it and with the Consumer Credit Protection Act, as amended (15 U.S.C. 1601 et seq.). In determining compliance,

1 the Department may examine the books, accounts, records, files,
2 and other documents or matters of any licensee or person. RSA
3 397-A:12 further requires every person being examined, and all
4 of the officers, directors, employees, agents, and
5 representatives of such person shall make freely available to
6 the commissioner or his examiners, the accounts, records,
7 documents, files, information, assets, and matters in their
8 possession or control relating to the subject of the examination
9 and shall facilitate the examination. The Respondent violated
10 this provision by failing to facilitate the examination.

11 4. RSA 397-A:11 provides for a fine of \$50 per day for every day
12 that records are not produced after 21 days.

13 5. RSA 397-A:11 provides that failure to provide files and
14 documents within 60 days after being requested to do so by the
15 department shall be sufficient cause for license revocation,
16 suspension, or denial.

17 6. RSA 397-A:21 IV provides that any person who, either knowingly
18 or negligently, violates any provision of Chapter 397-A, may
19 upon hearing, and in addition to any other penalty provided for
20 by law, be subject to an administrative fine not to exceed
21 \$2,500, or both. Each of the acts specified shall constitute a
22 separate violation, and such administrative action or fine may
23 be imposed in addition to any criminal penalties or civil
24 liabilities imposed by New Hampshire Banking laws.

25 7. RSA 397-A:21 V provides that every person who directly or
indirectly controls a person liable under this section, every

1 partner, principal executive officer or director of such person,
2 every person occupying a similar status or performing a similar
3 function, every employee of such person who materially aids in
4 the act constituting the violation, and every licensee or person
5 acting as a common law agent who materially aids in the acts
6 constituting the violation, either knowingly or negligently, may,
7 upon notice and opportunity for hearing, and in addition to any
8 other penalty provided for by law, be subject to suspension,
9 revocation, or denial of any registration or license, including
10 the forfeiture of any application fee, or the imposition of an
11 administrative fine not to exceed \$2,500, or both. Each of the
12 acts specified shall constitute a separate violation, and such
13 administrative action or fine may be imposed in addition to any
14 criminal or civil penalties imposed.

15 **RELIEF REQUESTED**

16 The staff of the Department requests the Commissioner take the following
17 Action:

- 18 1. Find as fact the allegations contained in section I of this petition;
- 19 2. Make conclusions of law relative to the allegations contained in
20 section II of the this petition;
- 21 3. Order the Respondents to Show Cause why its license should not be
22 revoked;
- 23 4. Assess fines and administrative penalties in accordance with RSA 397-
24 A:21, for violations of Chapter 397-A, in the number and amount equal
25 to the violations set forth in section II of this petition; and
5. Take such other administrative and legal actions as necessary for

1 enforcement of the New Hampshire Banking Laws, the protection of New
2 Hampshire citizens, and to provide other equitable relief.

3 **RIGHT TO AMEND**

4 The Department reserves the right to amend this Staff Petition and to
5 request that the Commissioner take additional administrative action.

6 Nothing herein shall preclude the Department from bringing additional
7 enforcement action under RSA 397-A or the regulations thereunder.

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9 Respectfully submitted by:

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11 /S/
James Shepard
12 Staff Attorney

1/31/08
Date